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June 23, 2008

BY HAND

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Southern District of New York
500 Pearl St.
New York, NY 10007

MEMORANDUM ENDORSED

Re: Simmon v. Morales, et al., 07 CV 8832 (LAK)(GWG)

Dear Magistrate Judge Gorenstein:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to the defense of the above-referenced matter. This office recently learned that Captain Morales, Correction Officer Jones, Correction Officer Carter and Deputy Warden Gallagher may have been served with a copy of the summons and amended complaint in this matter on or about June 2, 2008. I am writing to respectfully request a sixty-day enlargement of time, from June 23, 2008 until August 22, 2008, within which defendants Captain Morales, Correction Officer Jones, Correction Officer Carter and Deputy Warden Gallagher may answer or otherwise respond to the amended complaint.¹ I write directly to the Court because plaintiff is currently incarcerated and proceeding pro se in this matter. No previous request for an extension has been made on behalf of defendants.

¹ Although this office does not currently represent Captain Morales, Correction Officer Jones, Correction Officer Carter or Deputy Warden Gallagher, we respectfully make this request on their behalves in order that their defenses are not jeopardized while representational issues are being resolved.


The complaint alleges, inter alia, that plaintiff was subjected to excessive force while plaintiff was incarcerated on Rikers Island. Before this office can adequately respond to the amended complaint, we will need to conduct an investigation into the facts of the case. The enlargement of time will afford us the opportunity to investigate the matter.

Moreover, the enlargement will allow us to ascertain whether Captain Morales, Correction Officer Jones, Correction Officer Carter and Deputy Warden Gallagher have been properly served. If proper service has been effectuated then, pursuant to Section 50-k of the New York General Municipal Law, this office must determine, based on a review of the case, whether we may represent the individual defendants. The individual defendants must then decide whether they wish to be represented by this office. If so, we must obtain their written authorization. Only after this procedure has been followed can we determine how to proceed in this case.

In view of the foregoing, it is respectfully requested that the Court grant the within request extending defendants Captain Morales, Correction Officer Jones, Correction Officer Carter and Deputy Warden Gallagher's time to answer or otherwise respond to the amended complaint until August 22, 2008.

Thank you for your consideration in this regard.

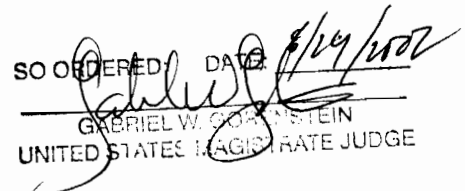
Respectfully submitted,



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G. Rendel

SO ORDERED: DATE 8/14/08

GABRIEL W. GORDONSTEIN
UNITED STATES MAGISTRATE JUDGE